

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
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UNITED STATES OF AMERICA,

-against-

S1 16-CR-91 (PKC)

SCOTT TUCKER AND TIMOTHY MUIR,

Defendants.

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**DEFENDANTS SCOTT TUCKER AND TIMOTHY MUIR'S  
PROPOSED EXAMINATION OF PROSPECTIVE  
JURORS**

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February 17, 2017

## **DEFENDANTS SCOTT TUCKER AND TIMOTHY MUIR'S PROPOSED VOIR DIRE**

Defendants Scott Tucker and Timothy Muir respectfully request that the Court include the following questions in its examination of prospective jurors. They also request that the Court pursue more detailed questioning if a particular juror's answer reveals that further inquiry is appropriate.

### **Description of the Charges**

The defendants are charged in an indictment which alleges that they conspired to collect unlawful debts, collected unlawful debts, conspired to commit wire fraud, committed wire fraud, conspired to commit money laundering, promoted money laundering, concealed money laundering and violated the Truth in Lending Act through their involvement in a payday lending business.

The indictment listing these charges is simply the document used to advise the defendants of the accusations against them. The indictment is not evidence. The individuals on trial in this case have pleaded not guilty to all charges in the indictment. It is the government that has the burden of proof under our system of laws. The prosecution must provide you with proof beyond reasonable doubt that the individual accused has committed the crimes charged before she can be found guilty. The defendants have no obligation to produce any evidence or do anything else at trial. This is because the defendants are presumed to be innocent of the charges brought against them, and that presumption stays with them throughout this trial unless and until you reach a final verdict of guilty.

## **PROPOSED QUESTIONS**

### **Difficulties With Service**

1. The Court and the parties estimate that after a jury is selected, this case may last approximately eight weeks. Jury service is one of the highest duties and privileges of a citizen of the United States. Mere inconvenience or the usual financial hardships of jury service will be insufficient to excuse a prospective juror. Does any juror wish to apply to the Court to be excused on the ground that jury service would be a serious hardship?
2. Does any juror have any difficulty reading or understanding English?
3. Does any juror have any physical problem (for example, with your sight or hearing) that would interfere with your ability to serve? If yes, please describe.
4. Does any juror regularly take any medication that could affect his or her ability to serve? If yes, please describe.

### **Association with the Government or the Defense**

5. Has any juror or any family member or close friend of a juror, ever applied to work or actually worked in any area of law enforcement? (e.g., any prosecutors' office, whether federal or state; any federal investigative agency, such as the FBI, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, Drug Enforcement Administration, Customs Service, Bureau of Alcohol, Tobacco and Firearms, Postal Inspectors; any state or local police department; any probation office; any sheriffs office; any correctional facilities).

6. Is any juror planning, or is anyone in any juror's family or close circle of friends, applying or planning to apply for a law enforcement position? If yes, please describe.

7. Has any juror or any family member or close friend of a juror, ever been involved, in any capacity, in any kind of investigation of financial crimes? If yes, please describe.

8. Has any juror or any family member or close friend of a juror, ever worked or volunteered for any organization focused on consumer protection? If yes, please describe.

9. Has any juror or any family member or close friend of a juror, ever worked or volunteered for any organization focused on debt counseling? If yes, please describe.

10. Has any juror or any family member or close friend ever reported a business to the Better Business Bureau or any other consumer protection organization?

11. Does any juror have any relatives or close friends who are lawyers or who have legal training? If yes, please describe your relationship with the person and, if you know, the type of law he or she practices.

12. You will hear that Mr. Muir is a lawyer. Have any of you had experiences with lawyers that would make it difficult for you to be fair and impartial?

#### **Experience as a Defendant, Witness or Victim**

13. Has any juror, or any family member or close friend, ever been charged with a crime or been the subject of a criminal investigation? If yes, and if you prefer, you may answer at side bar.

14. Has any juror, or any family member or close friend, ever appeared or testified as a witness in any investigation or legal proceeding?

15. Has any juror or any family member or close friend, ever been questioned

in any matter by any local, state or federal law enforcement agency?

16. Has any juror ever had a dispute with any local, state or federal agency or any of its employees?

17. Has any juror or any family member or close friend, ever been the victim of a crime (whether or not reported to the police)? If yes, and if you prefer, you may answer at side bar.

#### Prior Jury Service

18. (a) Has any juror ever served as a juror previously, whether in a criminal or civil case or on a grand jury?

(b) If you have sat as a juror in a criminal case, please describe the case and state whether you were the foreperson and whether or not there was a verdict.

(c) If you have sat as a grand juror, do you understand that the standard of proof at a criminal trial is very different? If yes, explain.

(d) If you have had any experience as a civil juror, do you understand that the standard of proof at this trial is also very different?

#### Jurors' Experience with PayDay Lending/ Native Americans

19. Has any juror or any family member or close friend ever applied for or taken out a payday loan? If yes, is there anything about that experience that might make it difficult for you to decide the facts of the case fairly and impartially?

20. Does any juror believe that payday lending should be illegal? If so, please tell us your feelings.

21. Does any juror have feelings, either positive or negative, about payday loans that might make it difficult for you to decide the facts of the case fairly and impartially? If

yes, please describe.

22. Has any juror ever had an experience where they felt deceived by the terms of a loan? If yes, please describe.

23. Does any juror have any feelings, positive or negative, towards Native American tribes? If yes, please describe.

24. Does any juror have any feelings, positive or negative, towards individuals or businesses who partner with Native American tribes? If yes, please describe.

25. Does any juror have any feelings, positive or negative, towards Native American sovereignty? If yes, please describe.

26. Does any juror have any personal knowledge of the charges in the indictment as I have described to you?

27. Has any juror seen or read any media coverage of this case and/or the payday lending industry, whether from television, radio, newspapers or the Internet? If yes, please describe at the bench.

a) Would what you have seen or read tend to influence you in any way in your consideration of this case?

b) As a result of what you have read or heard, have you formed any opinion about this case and/or the payday lending industry, either favorable or unfavorable?

c) As a result of what you have read or heard, would it be difficult for you to be a fair and impartial juror in this case?

### Jurors' Backgrounds

28. In which neighborhood or town do you currently reside?
29. How long have you lived at your present residence? Do you own or rent?

Where else have you lived in the last five years?

30. What is your age?
31. What is your place of birth?
32. How are you employed? (If retired or unemployed, what type of work did you last perform?)
33. Do you (or did you) supervise employees in your work? If yes, how many?
34. What is your marital status, and, if you are married, how is your spouse employed? If you live with a partner or significant other, how is he or she employed?
35. If you have children, please tell us their ages, gender and kind of work they do.
36. Please tell us who else in your household works outside the home and the type of work that person does.
37. What was your highest level of education? If you are presently a student, please describe briefly your area of study and any degrees you have earned.
38. What newspapers and magazines do you read, if any, regularly?
39. Do you follow crime stories or criminal cases in the news? If yes, what cases or stories have you followed recently?
40. Do you watch crime shows on television? If yes, which programs do you like?
41. Do you belong to any clubs, associations or civic groups, such as, for example, Kiwanis, Rotary Club, Knights of Columbus, Veterans of Foreign Wars, American Legion, American Civil Liberties Union, National Rifle Association, League of Women

Voters or any other organization? If yes, please state those to which you belong.

42. Have any of you served in the military? If yes, what branch and rank?

43. Aside from the questions I have already asked, does any juror have any opinions about or experiences with the payday loan industry such that the charges in this case alone will make it difficult to be fair and impartial?

### **Ability to Follow Instructions**

44. Under the law, the facts at issue in the trial are for the jury to determine. The law applicable to the charges in the case is something on which the Court will instruct you. You are required to accept the law as I explain it to you regardless of any opinions you might have as to what the law is or should be. Does any juror have any difficulty following that instruction?

45. Some witnesses in this case may be law enforcement officers and/or federal agents. The credibility of these witnesses is to be judged by the same standards as any other witness. Their testimony is not entitled to any greater or lesser weight simply because they are involved in law enforcement. Does any juror have any difficulty following this rule?

46. Under the law, a defendant need not testify or produce any evidence. The burden of proof is always on the government to prove the charges beyond a reasonable doubt. If a defendant does not testify, the jury may not consider that fact in any way in reaching a decision. Will any juror have any difficulty accepting and following these rules?

47. Every defendant is presumed innocent and cannot be convicted unless the jury, unanimously and based solely on the evidence in the case, decides that his guilt has been proved beyond a reasonable doubt. Will any juror have any difficulty accepting and

following this rule?

48. The jurors in this case will be required to take an oath that they will decide the facts in this case according to the evidence and the law as I give it to you, and that they will do so without fear or favor to any person. Is there anything about this case that may prevent any juror from following that oath?

49. Has any juror, based on any experience you have had or seen or heard or read, developed any personal feelings about criminal defense attorneys or criminal trials, that would make it difficult for you to be fair and impartial? If yes, please describe.

50. Does any juror, based on any experience you have had or seen or heard or read, feel like the criminal justice system is too lenient on those accused of committing financial or white-collar crimes?

51. Does any juror have any feelings at all, including any bias, sympathy, or prejudice, caused by anything you may have read, seen, heard or for any other reason, which would make it difficult for you to render a fair and impartial judgment based solely on the evidence presented at trial? If yes, please describe.

52. Does any juror feel like the fact that this case has gotten all the way to trial somehow means that the defendants are probably guilty or that there must be merit to the charges?

53. Under the law, the defendants are presumed innocent until proven guilty beyond a reasonable doubt. Is there any juror who, for whatever reason, has difficulty believing as they sit here today that these defendants are innocent?

54. Is there any matter that you should call to the Court's attention that may have any bearing on your qualifications to serve as a juror, or that may affect your ability to render an impartial verdict based solely on the evidence, or the lack thereof, and the Court's instructions on the law? If yes, please explain.

Dated: New York, New York  
February 17, 2017

Respectfully Submitted,

/s/ Lee A. Ginsberg

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Lee A. Ginsberg  
On behalf of Defendants